S.B. CIVIL WRIT PETITION (PAROLE) NO.2986/2007.

John Joseph
Vs.
State of Rajasthan and anr.

Date of order : 23/5/2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri N.A. Naqvi for the petitioner.
Shri B.S. Chhaba Dy.GA for the State.

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This is a petition by convict John Joseph who has been sentenced to undergo rigorous imprisonment of 5 years for offence under Section 376/511 IPC.

Learned counsel for the petitioner submits that as per Rule 9 of the Rajasthan Parole Rules, 1958 (in short, “Rules of 1958”) the petitioner is entitled to be released on regular parole as he has served ¼th of his sentence but his application under Rule 9 of the Rules of 1958 for release on regular parole for 20 days has been mechanically rejected.

Learned Deputy Government Advocate while opposing writ petition submitted that the District Advisory Parole Committee after scrutinising the report of the S.P. Bundi has rejected the

application.

Learned counsel for the petitioner cited the Division Bench judgment of this Court and argued that first parole of a convict is a statutory right under Rule 9 of the Rules of 1958 which should not be denied regardless the reason cited by the convict.

After hearing learned counsel for the parties and perusing the materials available on record and the judgment cited by the learned counsel for the petitioner at the bar, I find that the matter requires re-consideration at the end of the competent authority because if any reason cited by the petitioner is not accepted as right, nevertheless his statutory right of release on first parole in terms of Rule 9 of the Rules of 1958 cannot be denied particularly when the District Advisory Parole Committee does not find any adverse report against the petitioner as to his conduct.

It is therefore directed that case of the petitioner shall be placed for consideration before the District Advisory Parole Committee afresh and

appropriate orders on the request of the petitioner shall be passed within four weeks from the date of receipt of certified copy of this order.

With these observations, this writ petition is disposed of.

(MOHAMMAD RAFIQ), J.

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